

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:01CR57-MU**

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
vs.)
)
WAYNE ACHILLE McALLISTER,)
)
 Defendant.)
_____)

ORDER

THIS MATTER is before the Court upon the Defendant's Motion to Proceed on Appeal In Forma Pauperis, filed April 25, 2005.

Federal law requires that a defendant filing a notice of appeal must pay a filing fee in the amount of two-hundred and fifty-five dollars (\$255.00), plus service fees and other costs. Defendant argues in the instant motion that because an Audita Querela motion is not a pure civil action it should not fall under the purview of the Prison Litigation Reform Act. This Court agrees. However, Defendant has provided the Court with no information regarding his ability to pay a filing fee and therefore the Court cannot rule on his in forma pauperis motion.

IT IS THEREFORE ORDERED that Defendant has thirty (30) days in which to provide the Court with a copy of his trust account statement. Defendant is warned that failure to comply with this Order will result in the denial of his Motion to Proceed on Appeal In Forma Pauperis.

Signed: May 10, 2005

A handwritten signature in cursive script, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
Chief United States District Judge

